

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON**

ELWOOD H. JONES, JR.,

Petitioner,

-v-

MARGARET BAGLEY, Warden

Respondent.

Case No. C-1:01-cv-564

**Judge Thomas M. Rose
Magistrate Judge Michael R. Merz**

ENTRY AND ORDER OVERRULING JONES'S OBJECTIONS (Doc. #176) TO THE MAGISTRATE JUDGE'S REPORT AND RECOMMENDATIONS REGARDING A CERTIFICATE OF APPEALABILITY; ADOPTING THE MAGISTRATE JUDGE'S REPORT AND RECOMMENDATIONS (Doc. #175) IN ITS ENTIRETY AND GRANTING A CERTIFICATE OF APPEALABILITY ON SUB-CLAIM ONE OF GROUND FOR RELIEF TWO, ON GROUND THREE AND ON SUB-CLAIM B OF GROUND FOR RELIEF FIVE

This matter comes before the Court pursuant to Petitioner Elwood H. Jones Jr.'s ("Jones's") Objections to Magistrate Judge Michael R. Merz's Report and Recommendations regarding a Certificate of Appealability. The Report and Recommendations was entered on May 17, 2010. (Doc. #175.) On June 1, 2010, Jones filed objections. (Doc. #176.) On June 11, 2010, the Warden responded to Jones's Objections. (Doc. #177.) Jones's Objections are, therefore, ripe for decision.

As required by 28 U.S.C. §636(b) and Federal Rules of Civil Procedure Rule 72(b), the District Judge has made a de novo review of the record in this case. Upon said review, the Court finds that Jones's Objections to the Magistrate Judge's Report and Recommendations are not well-taken, and they are hereby OVERRULED. The Magistrate Judge's Report and Recommendations is adopted in its entirety.

Jones is under an Ohio sentence of death. On February 19, 2010, this Court dismissed Jones's Petition for a Writ of Habeas Corpus. On April 15, 2010, Jones filed a Motion for Certificate of Appealability. This Motion seeks a Certificate of Appealability on Jones's Second, Third, Fourth and Fifth Grounds for Relief.

Jones's Motion for a Certificate of Appealability is granted in part and overruled in part. A Certificate of Appealability is hereby issued on Sub-Claim One of the Second Ground for Relief, the Third Ground for Relief and Sub-Claim B of the Fifth Ground for Relief. A Certificate of Appealability on all other claims is denied.

DONE and **ORDERED** in Dayton, Ohio, this Fifteenth Day of June, 2010.

s/Thomas M. Rose

THOMAS M. ROSE
UNITED STATES DISTRICT JUDGE

Copies furnished to:

Counsel of Record